

Remarks

Claims 1-3 and 17-21 are pending in this application. Claims 1-2, 5-10, 13, and 19-21 are rejected under 35 USC §102(b) as anticipated by U.S. Patent No. 5,565,316 referred to hereafter as Kershaw. Claims 3-4, 11-12, and 17-18 are rejected under 35 USC §103(a) as unpatentable over Kershaw in view of U.S. Patent No. 7,099,620 B2 referred to hereafter as Miller. The above-identified present patent application has been published as US Patent Application Publication 2004/0221013A1, and references to the specification in this response are in terms of paragraphs of the publication for the Examiner's convenience.

Claim Rejections Under 35 USC §102(b) – Kershaw

Claims 1-2, 5-10, 13, and 19-21 are rejected under 35 USC §102(b) as anticipated by Kershaw. Applicants respectfully traverse this rejection as Kershaw fails to teach or suggest all of the elements of independent claims 1, 13, and 20. All dependent claims in this rejection depend on either claim 1, claim 13, or claim 20 and are thus patentable for that reason and for their additional limitations.

Kershaw does not teach or suggest a second server computer system that is configured to receive user information and responses to the test items from a separate (e.g. second) server computer system and to deliver test packages to a separate (e.g. first) server computer system that communicates with the testing stations. Miller also doesn't teach a second server computer system.

Further, in contrast to the present invention, Kershaw's user's responses are not saved at substantially the same time they are received but instead are stored on disk and eventually

transferred for scoring. See column 8 lines 50-55 of Kershaw for example, “The examinee’s responses to questions presented by the test are preferably stored on the hard disk on each workstation **3** and are later preferably backed up by the administrator and transferred to the central processing site **1** for scoring and evaluation.” Kershaw keeps a single examinee performance file per test session (Table 8) and can update log records to a file when a user answers a question (column 41 line 54: “When the examinee responds to an item and moves to the next screen, data is written to an end item event log record.”). Kershaw’s examinee performance records are however apparently not reported in substantially real time, but only as part of an “end of day process” when workstations are shut down (see column 70 line 2 and column 72 lines 20-56 for example). Miller does not cure this shortcoming but instead transmits a user’s responses to the server every 60 seconds or so (see for example column 10 line 26 to column 11 line 9 of Miller).

In contrast, the present invention instead may immediately transmit recorded user actions; see for example Figure 2 step 245 and paragraph **[0039]** “The user interactions which may cause the state to be updated can be configured to meet the needs of a given examination and may include any interaction or only those which result in a response being made to the current test item being displayed. If the user interaction is one requiring the state to be updated, the testing station then transmits the changes to the state to the service center **245**.” This feature is distinct from the heartbeat timer of the present invention, which merely ensures that user interactions that are not ones which require the state to be updated are periodically transmitted (see Figure 2 step 230 and paragraph **[0040]** for example).

Claim Rejections Under 35 USC §103(a) – Kershaw and Miller

Claims 3-4, 11-12, and 17-18 are rejected under 35 USC §103(a) as unpatentable over Kershaw in view of Miller. Applicants respectfully traverse this rejection as Kershaw and Miller fail to teach or suggest all of the elements of independent claims 1, 13 and 20. All dependent claims in this rejection depend on either claim 1, claim 13 or claim 20 (argued above) and are thus patentable for that reason and for their additional limitations.

Conclusion

Therefore, all rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned representative for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,
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